IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Smt. Renu Goyal & Anr. Vs. Vinod Goyal
S.B. CR. REVISION PETITION NO.566/2006

Against judgment dated 16.05.2006 passed by Judge, Family Court, Udaipur in Criminal Case No.309/2005 (Smt. Renu & Anr. Vs. Vinod Goyal).

DATE OF ORDER :: 10th November, 2006.

PRESENT

HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK

Mr. Deepak Menaria for petitioners.
Mr. Manoj Joshi for respondent.

BY THE COURT:

The present petition under Sec.397 read with Sec.401 Cr.P.C. by wife and son of respondent has been filed for enhancement of interim maintenance awarded by Judge, Family Court, Udaipur vide judgment dated 16.05.2006 passed in Criminal Case No.309/2005 (Smt. Renu & Anr. Vs. Vinod Goyal), on an application moved under Sec.125 of the Cr.P.C. by the petitioners.

The facts, in brief, as would transpire from the present petition are that marriage between respondent and petitioner No.1 was solemnized on 15.02.2002 and they were blessed with one son on 06.11.2002 but the petitioner No.1 in her matrimonial home was harassed and ill-treated by husband and other members of in-laws family for bringing less dowry and they also misbehaved with his brother and parents, who visited her matrimonial home. She was locked in a room and threatened of dire consequences, however, she saved her life anyhow and took shelter in a temple with her infant child but the in-laws did not care to find her out. Later on, she filed application under Sec.125 of the Cr.P.C. for maintenance to herself and the child, inter-alia giving details about the income of her husband. The learned Judge, Family Court, Udaipur decided the application allowing petitioner No.1 interim maintenance @ Rs.700 and the minor son Nukul alias Naveen Rs.500 per month from the date of order i.e. 16.05.2006. The petitioners, dissatisfied with the grant of interim maintenance amount, have filed the present revision petition for its enhancement.

The contention of the learned counsel for the petitioners is that the learned trial Court has not adequately granted interim maintenance to the petitioners, who are wife and minor son of respondent, therefore, it needs to be enhanced. It has also been submitted that evidence in the case was led to the extent that non-petitioner respondent was having income of Rs.10,000/- per month, therefore, the trial Court ought to have considered the matter in its correct perspective.

On the other hand, the learned counsel appearing for the non-petitioner respondent submitted that the trial Court after taking into consideration has correctly appreciated the matter and the order passed by Family Court requires no interference by the Court.

I have carefully considered the submissions made before me.

It appears that petitioners moved petition before the learned trial Court under Sec.125 of the Cr.P.C. and the parties have led evidence. The trial Court finding that in

view of evidence recorded, the interim maintenance was required to be allowed which was quantified at Rs.700 per month to the petitioner and Rs.500 per month to her son. The evidence, particularly of the father of petitioner No.1 in this case, clearly indicates that to maintain the petitioners a sum of Rs.1,500 or Rs.2000 per month is necessarily required. The other evidence in the case, which has not been disputed is that petitioner was temporarily employed as Accountant at the establishment of Ratan Automobile and there he was getting Rs.2,500/- per month. The evidence of the petitioner claimant is also to the effect that non-petitioner is having two shops of his father. Thus, considering the entire evidence, the earnings of non-petitioner husband and the statement of petitioner No.1 Smt. Renu and her father, the interim maintenance awarded by the trial Court to the petitioners requires to be enhanced to Rs.2,000/-, as such, the trial Court's order is to be modified to the extent that petitioner Smt. Renu, instead of Rs.700/- per month she shall be entitled to a sum of Rs.1200/- per month and her son instead of Rs.500/- shall be entitled to receive a sum of Rs.800/- per month as interim maintenance.

Accordingly, the revision petition is partly allowed and the impugned order is modified to the extent that petitioner No.1 Smt. Renu and petitioner No.2 Mukul Goyal shall be entitled to receive monthly interim maintenance at the rate of Rs.1200/- and Rs.800/- respectively. Rest of the order passed by the learned Family Court shall remain intact.

The petition stands disposed of accordingly.

(SATYA PRAKASH PATHAK)J.

/jpa